

ATTENTION: BOX AFTER FINAL
EXPEDITED PROCEDURE REQUESTED
EXAMINING GROUP 2164

Attorney's Docket No.: 34874-021-UTIL/2003P00725US
Customer No.: 64280

REMARKS

Claims 1-10 and 15-21 are pending. No new matter has been introduced.

Claims 1-10 and 15-21 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Kotas *et al.*, U.S. Patent Application No. 2003/0204449A1 (hereinafter "Kotas").

Reconsideration and allowance of the current application are respectfully requested. No new matter has been added.

35 USC § 102 – Claims 1-10 and 15-21

Claims 1-10 and 15-21 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Kotas. This rejection is respectfully traversed. For a rejection to be proper under 35 U.S.C. §102(b), the Office is required to make a *prima facie* showing that each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. [MPEP §2131 quoting from *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).]

As a general note, it is respectfully submitted that the Office continues to misapply Kotas in relation to the explicit language of the claims. In particular, the Office appears to have misconstrued the word "predetermined" as it could rationally pertain to the disclosure of Kotas. The manner in which predetermined is used in the instant application indicates that the search parameters specified are not entered by a user at the time of the search but are rather associated with a query at the time a search option is created and included in the control to be shown in the user interface and later selected by a user. Likewise, the visual configuration to be associated with the query of a given search option is determined not at the time the search option is selected by the user but rather at the time the search option is created and included in the control. The Office is respectfully urged to consider this point in light of the current claim rejections.

For example, claim 1 clearly and unequivocally states that each search option of the plurality of search options presented by the control specifies **both** a predetermined query **and** a predetermined visual configuration for displaying the results of that query. An example of this claimed aspect is clearly shown in FIG. 2 and FIG. 3 of the above-referenced application. Kotas clearly does not disclose this limitation. While the Office has stated correctly that the search menu as shown in for example FIG. 1A and FIG. 3B of Kotas can show different queries (such as "Music" or "Camera and

**ATTENTION: BOX AFTER FINAL
EXPEDITED PROCEDURE REQUESTED
EXAMINING GROUP 2164**

Attorney's Docket No.: 34874-021-UTIL/2003P00725US
Customer No.: 64280

Photo”), the assertion by the Office that the search menu presents predetermined visual configurations is not supported by the disclosure of Kotas. The Office has pointed to FIG 1A through FIG 4C as examples of different visual configurations associated with the predetermined queries, but this assertion ignores the clear and explicit claim limitation that the predetermined visual configuration and the predetermined query are specified by a single search option. Nowhere does Kotas disclose that a single search option specifies both the predetermined query to be performed and the predetermined visual configuration in which the query results are to be presented. For at least this reason, reconsideration and withdrawal of the pending rejection of claim 1 and all claims that depend therefrom is respectfully requested.

Claims 2 and 3 add the additional explicit limitations that two of the search options of the plurality of search options specify a common predetermined query but different predetermined visual configurations (claim 2) and that two of the search options specify a common predetermined visual configuration for different predetermined queries. These limitations are also absent, either as explicit disclosures or as suggestions in Kotas, yet the Office has continued to ignore the explicit claim language in favor of an argument based on the figures of Kotas that admittedly show different user interface arrangements. It is respectfully submitted that the fact that Kotas shows different user interface arrangements is not relevant to the question of whether Kotas in fact discloses the limitations recited in claims 2 and 3. For at least these reasons as well as those outlined above in regards to claim 1 whose limitations are also present in claims 2 and 3, reconsideration and withdrawal of the pending rejection of claims 2 and 3 is respectfully requested.

With regards to claim 7, the Office's stated position with regards to claim 7 is also not logically supported by the disclosure of Kotas. As stated previously, Kotas does not disclose that a data repository includes the results of an executed query of the repository which is then queried by a predetermined query selected by the user. The comments provided in the pending Office Action with regard to Claim 7 do not support the allegation that the limitations of Claim 7 are anticipated by Kotas. Use of a pre-determined query for each item sold via the online marketplace would be unmanageably cumbersome. Nowhere does Kotas include a disclosure that would support the Office's contention that a “pre-determined query will specify specific results (such as a specific book title).” Rather, details such as a book title or author would be specified by a user in the text field provided in the search box shown in the various figures of Kotas. These are not predetermined queries but rather are customized

**ATTENTION: BOX AFTER FINAL
EXPEDITED PROCEDURE REQUESTED
EXAMINING GROUP 2164**

Attorney's Docket No.: 34874-021-UTIL/2003P00725US

Customer No.: 64280

searches. For at least this reason and those noted above for claim 1, Kotas does not anticipate Claim 7.

Claim 15 is also respectfully submitted to be patentable over Kotas. The arguments presented above for claim 1 can be similarly applied. Nowhere in Kotas is a control disclosed that presents a plurality of drill down options wherein each option specifies both a predetermined drill down query and a predetermined visual configuration for displaying results of the drill down query. As noted above, merely pointing to the fact that Kotas shows a few different possible interface arrangements is not a sufficient basis to establish disclosure of the limitation that each search option specifies both a drill down query and a visual configuration. For at least this reason, reconsideration and withdrawal of the pending rejection of claim 15 and all claims that depend therefrom is respectfully requested.

As a clarifying note, the Office has deemed moot the previously presented argument that Kotas neither discloses nor suggests that user entries in the "Search" box shown in FIG. 1A and FIG. 1B may specify a predetermined visual configuration for displaying the result of a predetermined query. The Office has apparently interpreted this statement to be an argument that such a limitation is included in the claims. It clearly is not. Rather, the statement was meant to point out the untenability of the Office's position with regards to the Kotas disclosure. Specifically, the only aspects of the search box that could even remotely rationally be construed as "predetermined" are the various genres such as "Music" and "Camera and Photo." None of the search box options in the pull down menu (the only aspect of the search box that could be "predetermined" present both a query (or a drill-down query) and an associated visual configuration for the results of the query or drill-down query. As such, the search box shown in Kotas simply cannot reasonably be interpreted as an anticipatory disclosure of the subject matter of any of the currently pending claims.

In closing, no valid *prima facie* case for anticipation of the pending claims can be established based on the disclosure of Kotas. Prompt withdrawal of the pending rejections is therefore respectfully submitted.

**ATTENTION: BOX AFTER FINAL
EXPEDITED PROCEDURE REQUESTED
EXAMINING GROUP 2164**

Attorney's Docket No.: 34874-021-UTIL/2003P00725US
Customer No.: 64280


CONCLUDING COMMENTS

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

On the basis of the foregoing amendments, it is respectfully submitted that the pending claims are in condition for allowance. If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below. No fee is believed to be due, however, the Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 34874-021-UTIL/2003P00725US.

Respectfully submitted,

Date: July 25, 2007



Michael D. Van Loy
Reg. No. 52,315

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
9255 Towne Centre Drive, Suite 600
San Diego, CA 92121
Customer No. 64280
Tel.: 858/320-3000
Fax: 858/320-3001